

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003  
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTIONS FILED MAY 19 AND 23, 2003**

This ruling resolves the following motions:

1. May 19, 2003 motion of the Commission's Consumer Protection and Safety Division (CPSD) for leave to file under seal its confidential opening brief.
2. May 23, 2003 motion of CPSD for an extension of time to file the public version of opening brief.
3. May 23, 2003 motion of Utility Consumers' Action Network (UCAN) for leave to accept late filing of its opening brief.

No opposition to any motion has been filed. For clarity of discussion, the first motion is addressed last.

Opening briefs in this proceeding were due on May 19, 2003. Cingular Wireless (Cingular) did file that day and CPSD included its brief in a closed

envelope attached to its motion for leave to file under seal. Cingular, CPSD and UCAN all exchanged briefs by email and forwarded an electronic copy to the assigned Administrative Law Judge (ALJ). However, both CPSD and UCAN required additional time to consult with Cingular in order to ensure mutual satisfaction that UCAN's brief and CPSD's proposed public brief, from which confidential information has been redacted, comply with previous rulings on the confidentiality of certain evidence in this proceeding. Having done so, UCAN and CPSD sought leave to file late. Since an electronic exchange occurred on a timely basis, no party is prejudiced by the requests to file late. Therefore, good cause appearing, the May 23 motions should be granted and the respective briefs should be filed. However, as discussed below, one word redacted from page 2 of CPSD's public brief should not be placed under seal.

CPSD's May 19 motion seeks leave to file the unredacted text of its brief under seal. Comparison of the public version and the unredacted version confirms that CPSD has exercised care not to reveal information deemed confidential by previous rulings in this proceeding, including the May 12, 2003, Joint Ruling of Assigned Commissioner and ALJ on Confidentiality of Specified Exhibits. It is not necessary to reiterate here the rationale of those rulings and accordingly, the motion should be granted and the confidential brief should be filed under seal with one exception.

The word "middle," which has been redacted from the last line of text on page 2 of the public brief, should be reinserted so that the relevant clause reads: "Cingular's system has coverage holes in the middle of San Francisco and other major metropolitan areas." In the context used, the word is too unspecific to relay meaningful details of Cingular's infrastructure. Public disclosure of this word, alone, will not reveal information to Cingular's competitors that will cause

Cingular “unfair business disadvantage” with in the meaning of the Commission’s General Order 66-C.

**IT IS RULED** that:

1. Commission’s Consumer Protection and Safety Division’s (CPSD) May 23, 2003 motion for an extension of time to file the public version of opening brief is granted. The public version of the opening brief shall be deemed filed as of May 23, 2003. However, the redaction in the last line of text on page 2 of the public brief shall be removed and the word “middle” should be reinserted so that the relevant clause reads: “Cingular’s system has coverage holes in the middle of San Francisco and other major metropolitan areas.”
2. UCAN’s May 23, 2003 motion for leave to accept late filing of its opening brief is granted. The opening brief shall be deemed filed as of May 23, 2003.
3. CPSD’s May 19 motion for leave to file the confidential version of its opening brief under seal is granted, as further specified in these ruling paragraphs.
4. The confidential version of CPSD’s opening brief shall remain under seal so long as the sealed evidence that it cites remains under seal. Accordingly, unless or until that sealed evidence is publicly disclosed, the confidential version of CPSD’s opening brief shall not be made accessible or disclosed to anyone other than Commission staff except pursuant to (a) the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge, or (b) the terms of a reasonable nondisclosure agreement applicable to this proceeding.

Dated June 10, 2003, at San Francisco, California.

/s/ JEAN VIETH

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Jean Vieth

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Administrative Law Judge

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions Filed May 19 and 23, 2003 on all parties of record in this proceeding or their attorneys of record.

Dated June 10, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

## N O T I C E

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